

- Q3
- an upper section having a central longitudinal axis, an externally threaded projection and an outer surface;
  - a lower section having a central longitudinal axis and an outer surface having bone attachment means configured to be surgically implantable into a patient's bone tissue;
  - joint means for connecting the upper and lower sections together, said joint means including corresponding mating surfaces configured to articulate with each other sufficiently to allow the upper and lower sections to angle relative to one another.

94 Claim 22, line 3, after "axis" insert -- ~~/~~ an externally threaded projection --.

Claim 29, line 4, delete "portion" and insert -- section --.

#### REMARKS

This Amendment responds to the Office Action of November 11, 1995. Claims 8, 10, 19, 20 and 29 have been amended in order to overcome the rejection under 35 U.S.C. § 112. Claims 1, 11 and 21 have been amended in order to correct the informalities in these claims. Claims 6, 16 and 27 have been cancelled.

The Examiner found claims 4, 5, 6, 14, 15, 16, 25, 26 and 27 to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, the subject matter of dependent claim 6, 16 and 27 has been incorporated into independent claims 1, 11 and 22 respectively. The subject matter of claim 6 has also been incorporated into independent claim 21.

The Examiner has rejected claims 11, 12, 13, 17, 18, 19, 21, 22, 23, 24, 28 and 29 under 35 U.S.C. § 102(b) as having subject matter anticipated by U.S. patent 4,946,458 to

Harms et al. The independent claims 11, 21 and 22 have been amended to include the allowable subject matter of dependent claims 16 and 27, respectively. Thus, amended claims 11, 21 and 22 are distinguishable over Harms et al. because they recite the structure of an externally threaded projection which is not taught in the Harms et al. reference. Applicant submits that these claims now in allowable form.

Dependent claims 12, 13, 17, 18, 19, 23, 24, 28 and 29 are directed to other features of the invention but since they dependent from independent amended claims 11 and 22, they will not be discussed further as they will be allowable when the subject matter of amended claims 11 and 22 is allowed.

The Examiner also has rejected claims 1, 2, 3 and 7-10 under 35 U.S.C. § 103 as having unpatentable subject matter over Harms et al. in view of U.S. patent 5,129,899 to Small et al. The subject matter of allowable claim 6 has been incorporated into claim 1 in order to distinguish the subject invention over the combined references of Harms et al. and Small et al. Applicant asserts that claim 1 is now in allowable form.

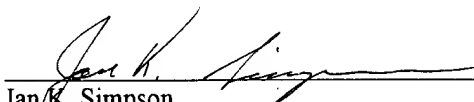
Dependent claim 2, 3 and 7-10 are directed to other features of the invention, but since they dependent from independent amended claim 1, they will not be discussed further as they will be allowed when the subject matter of amended claim 1 is allowed.

The Examiner also rejected claim 20 under 35 U.S.C. § 103 as having unpatentable subject matter over Harm et al. in view of Small et al. Since claim 20 now depends from an allowable independent claim, it will not be discussed further as it will be allowed when the subject matter of amended claim 11 is allowed.

In view of the foregoing amendments and remarks, it is submitted that this application is now in condition for allowance. In the event that minor claim amendments are necessary

to meet formal requirements, Applicant invites the Examiner to telephone the undersigned so that amendments can be made.

Respectfully submitted,

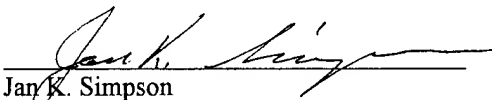
  
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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 2/7/96.

  
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